Constitution and By-laws

of the

Standing Rock Sioux Tribe

CONSTITUTION OF THE STANDING ROCK SIOUX TRIBE
(With Amendments Through June 11, 2008)

PREAMBLE

We, the members of the Standing Rock Sioux Tribe, a Sovereign Nation, in order to establish a more perfect Tribal Government, promote the general welfare, establish justice, insure tranquility, preserve and exercise our inherent Tribal sovereign rights and powers, conserve, develop and enlarge our lands, water, and resources pursuant to the Treaty of April 29, 1868, 15 Stat. 635 and unwritten Tribal laws, customs and practices, secure to ourselves and our posterity the blessing of liberty and freedom and in recognition of Ahte Wakan Tanka do ordain and establish this Constitution for the Standing Rock Sioux Tribe.

ARTICLE I – TERRITORY

The jurisdiction of the Standing Rock Sioux Tribe shall extend to all territory within the boundaries of the Standing Rock Reservation, as defined by the Act of March 2, 1889 (25 Stat. L. 888), notwithstanding the issuance of any patent, including all rights-of-way, waterways, watercourses and streams running through any part of the Reservation, and to such other lands as may be hereafter added to the Reservation under any law of the United States. The Reservation shall serve as a permanent homeland for the Standing Rock Sioux Tribe.

ARTICLE II – MEMBERSHIP

The membership of the Standing Rock Sioux Tribe shall consist of 1.) all persons of Indian blood who were duly enrolled on the official roll of the Tribe on June 15, 1957, and all persons of Indian blood who were duly enrolled subsequent to June 15, 1957, in accordance with the ordinances and procedures adopted by the Standing Rock Sioux Tribal Council pursuant to Article IV. & 1"r" of this Constitution and 2.) all persons of one-fourth (1/4) or more degree of "Oceti Sakowin" Indian blood from a Federally Recognized Tribe born after June 15, 1957 and prior to or subsequent to the effective date of this amendment, to a parent or grandparent who is a member of the Standing Rock Sioux Tribe, shall be added to the official roll of the Tribe upon proof demonstrating: a) the parent or grandparent's membership in the Standing Rock Sioux Tribe; b) the person for whom enrollment is sought is of one-fourth (1/4) or more degree of "Oceti Sakowin" blood from a Federally Recognized Tribe and born after June 15, 1957; upon the affirmative vote of two thirds of the Standing Rock Sioux Tribal Council then in office; and 3.) any person who is rejected for membership shall have the right to appeal to the Standing Rock Sioux Tribal Court from the decisions of the Standing Rock Sioux Tribal Council, and the decision of the Standing Rock Sioux Tribal Court shall be final. Provided further, that prior to the distribution of any tribal assets to the members of the Tribe, the membership roll shall be approved by the Secretary of the Interior.

ARTICLE III - GOVERNING BODY

Section 1. The governing body of the Standing Rock Sioux Tribe shall be known as the Standing Rock Sioux Tribal Council. The Tribal Council shall consist of a Chairman, Vice-Chairman, a Secretary, and fourteen additional Councilmen. Six of the fourteen additional Councilmen shall be residents of the Reservation without regard to residence in any district or State. Each of the remaining eight additional Councilmen shall be a resident of the district from which he is elected at-large by the electors of that district.

Section 2. The Reservation is comprised of the following districts:

1. **Fort Yates**
2. **Porcupine**
3. **Kenel**
4. **Wakpala**
5. **Running Antelope**
6. **Bear Soldier**
7. **Rock Creek**
8. **Cannonball**

The Tribal Council shall define the boundaries of each district and subject to the approval of the Secretary of the Interior may add or eliminate districts and may modify the boundaries of any district.

Section 3. Each member of the Tribal Council shall be elected, by secret ballot, for a term of four years, as provided in Article V, Sections 3 and 4, of this Constitution.

Section 4. Any enrolled member of the Standing Rock Sioux Tribe twenty-five (25) years of age or over, shall be qualified to seek and hold membership on the Tribal Council, provided:

1. that a candidate for the office of Chairman, Vice-Chairman or Secretary of the Tribal Council must have been living on the Reservation for at least one year next preceding the date of the election,

2. that a candidate for Councilman, without regard to residence in a district, must have been living on the Reservation for at least one year next preceding the date of the election and that a candidate for Councilman from the district of his residence must have been living in the district of his residence for at least one year next preceding the date of the election,

3. that he has not been convicted of a felony, dishonorably discharged from the Armed Forces, nor has been found guilty by the Tribal Council of misconduct in tribal affairs,

4. that he is not employed by the Bureau of Indian Affairs,

5. further provided that each candidate for office at any tribal election shall furnish a verified and complete statement disclosing all debts owed to or guaranteed by the Tribe, any agency of the Tribe, or corporation owned or controlled by the Tribe, and

6. that he is not delinquent in the payment of any debt owed to or guaranteed by the Tribe, any agency of the Tribe, or any corporation owned or controlled by the Tribe.

Section 5. The Tribal Council shall be the sole judge of the qualifications for membership on the Tribal Council.

Section 6. The Tribal Council shall elect from within its number such officers as it may from time to time deem appropriate.

Section 7. The Tribal Council shall meet each month at the Tribal Headquarters, on a date to be fixed by action of the Tribal Council and at such other times and places as may be designated by action of the Tribal Council or the Chairman. In addition, upon written request to the Chairman or the Secretary, by nine (9) members of the Tribal Council, a special meeting shall be called. A quorum to transact business shall consist of eleven (11) members of the Tribal Council. The Tribal Council and its committees shall keep a complete and accurate record of all proceedings, including reports and actions taken at every meeting.

Section 8. Any member of the Tribal Council who, during the term for which he is elected, is convicted of a felony shall automatically forfeit his office, Any member of the Tribal Council found guilty of neglect of duty, misconduct in office or an offense involving dishonesty may be removed from office by the Tribal Council by a vote of two-thirds (2/3) of the members of the Tribal Council voting, provided such member is first given twenty (20) days' notice in writing by the Secretary of the Tribal Council, and a chance to be heard. The Tribal Council shall by duly enacted ordinances establish such procedures and regulations necessary to carry out the intent of this section. All questions of removal under this section shall be resolved by the Tribal Council.

Section 9. All members of the Tribal Council and all other tribal officers before entering upon their official duties, shall take and subscribe to the following oath or affirmation to be administered by a qualified officer:

> **"I, , do solemnly swear (or affirm) that I will support the Constitution of the United States and the Constitution of the Standing Rock Sioux Tribe and uphold tribal law and the Treaty of April 29, 1868, and will faithfully discharge the duties of my office according to the best of my ability, so help me God."**

Section 10. Any member of the Tribal Council elected to represent a district shall attend all regular meetings of the District Council established for that district pursuant to Article VII. Any member of the Tribal Council elected from the entire Reservation, except for the Chairman, Vice-Chairman and Secretary, shall also attend one regular District Council meeting each month. The Council shall adopt such provisions as are necessary to enforce this section.

Section 11. The Tribal Chairman, Vice-Chairman, and Secretary and any other member of the Tribal Council shall be subject to recall from office.

To initiate a recall election, a recall petition must be filed with the Election Supervisor or such other officer as may be specified by ordinance duly enacted by the Tribal Council. The recall petition shall state the name and office of the person to be recalled. The petition shall be signed by a number of eligible voters equal to at least fifty percent (50%) of the number of persons who voted at the previous general Tribal election, or in the case of a Councilman elected to represent a district, by a number of eligible voters equal to at least fifty-percent (50%) of the number of persons who voted at the previous election for the Tribal Council representative from that district. The signatures on the recall petition shall be verified as established by the Tribal Council. The Election Supervisor or other specified official shall determine whether the recall petition meets the requirements of this section and shall certify the petition only if it does meet such requirements.

If a recall petition is duly filed and certified, a recall election shall be held within thirty (30) days of such certification. The issue placed on the ballot shall be "Whether (Person's Name) holding the office of (Person's Office) shall be recalled from that office" If two-thirds of the qualified electors, voting in the recall election vote to recall the official, a special election shall then be held to fill the recalled official's position. The person recalled from office shall continue to hold office unless and until a special election is held and a successor is elected, duly qualified and sworn into office. The person recalled from office may seek reelection in the special election. No person shall be subject to more than one recall election during a single term of office.

This Article shall be in addition to, and not in derogation of, the removal procedures in Article III, Section 8, of this Constitution. The Tribal Council shall by duly enacted ordinances establish such procedures and regulations as are necessary to carry out the intent of this section.

Section 12. All members of the Tribal Council and all other tribally elected officers shall act in accordance with a "Code of Ethics which shall have been adopted by Ordinance of the Council which shall include policies and procedures for enforcement, discipline and guidance. The Code of Ethics Ordinance shall include, but not be limited to as a basic foundation, the following tenets and principles of which the Council and Officers of the Council shall, in carrying out their respective duties and responsibilities, abide by the following:

CODE OF ETHICS

a. The faithful and diligent discharge of duties and responsibilities shall be for and in the best interest of the Standing Rock Sioux Tribe.

b. The discharge of duties and responsibilities shall be without variance, neglect, or influence in the form of compensation, gratuity, benefit or advantage from any source other than from the Standing Rock Sioux Tribe or as pre-authorized by the Standing Rock Sioux Tribe.

c. Use of Tribal property, funds, or resources shall be for authorized uses only and not for personal use or gain.

d. Take an "Oath of Confidentiality" which shall provide non-disclosure or use for personal gain, any confidential information of the Tribe.

e. To knowingly or intentionally alter, falsify, conceal, or destroy any official book, record, account or other document of the Tribe.

f. To present, allow or pay, charge or claim against the Tribe which the Tribal Official or employee, agent or instrumentality knows to be improper or illegal; and

g. To knowingly make any false statement in any official statement, report, certificate, application, claim or other document presented to or on behalf of Tribal Government or the Tribal Membership, which has an adverse effect or significant interests of the Tribe or its membership.

ARTICLE IV - POWERS OF THE STANDING ROCK SIOUX TRIBAL COUNCIL

Section 1. The Tribal Council shall exercise the following powers by appropriate motion, resolution or ordinance, subject to any limitation imposed by the Constitution or applicable statutes of the United States. So long as required by Federal law, any Tribal enactments needing approval by the Secretary of the interior or his delegated representative, will be forwarded to the Superintendent for action or referral to the Secretary of the interior or his delegated representative. All motions, resolutions and ordinances shall be acted on by the Tribal Council by a roll call vote in public, and the vote of each member shall be recorded in the minutes of all proceedings.

a. To negotiate with Tribal Federal, State, Local and International governments and others on behalf of the Tribe, and to advise and consult with the representatives of all governmental agencies on all activities which may affect the Standing Rock Sioux Tribe.

b. To advise the Secretary of the Interior on all appropriation estimates or Federal projects for the benefit of the Tribe or the Standing Rock Reservation.

c. To promote and protect the health, education and general welfare of the members of the Tribe, and to administer charity and such other services as may contribute to the social and economic advancement of the Tribe and its members.

d. To levy taxes or license fees upon members of the Tribe.

e. To prescribe rules governing nominations and elections of members of the Tribal Council.

f. To regulate the procedure of the Tribal Council.

g. To encourage and foster the arts, crafts, traditions, Sioux language, and culture of the Sioux Indians.

h. To authorize or direct subordinate boards, committees or tribal officials, to administer the affairs of the Tribe and to carry out the directives of the Tribal Council, provided that no tribal land or other tribal property may be alienated, encumbered or leased without express authority of the Tribal Council by resolution covering each transaction.

i. To exchange, lease or encumber tribal lands, to sell tribal lands only with the prior consent of a number of voters equal to three-quarters of the number of persons voting at the last general Tribal election, given at a referendum election called for that purpose, or by a written document the signatures on which have been verified as established by the Tribal Council, to prevent the sale, disposition, lease or encumbrance of Tribal lands and interests in lands, and to sell, dispose, exchange, lease or encumber other Tribal property, all as authorized by law.

j. To manage, protect and preserve the property of the Tribe and the wildlife and natural resources of the Standing Rock Reservation.

k. To administer any funds within the control of the Tribe; to make expenditures from available funds for Tribal purposes, including compensation for all Tribal officers, employees and Tribal councilmen, provided that the compensation of Tribal officers and councilmen shall not be increased or decreased during the term for which they are elected.

l. To deposit Tribal funds to credit of the Tribe without limitation on the amount in any account in any National or State Bank whose deposits are insured by an agency of the United States; provided that whenever required by the Secretary of Interior, or his authorized representative, funds advanced to the Tribe from funds held in trust for the Tribe by the United States shall be deposited with a bonded disbursing officer of the United States.

m. To engage in any business that will further the economic development of the Tribe and its members.

n. To tax and regulate the activities of all persons on the Reservation as permitted by law; and to provide for the maintenance of law and order and the administration of justice by establishing appropriate courts on the Reservation and defining their duties and powers.

o. To safeguard and promote the peace, safety, morals, physical and general welfare of members of the Tribe.

p. To levy taxes or license fees upon non-members of the Tribe doing business within the Reservation.

q. To employ counsel or consultants for the protection and advancement of rights and property of the Tribe and its members.

r. To prescribe the qualifications and procedures governing enrollment into the Tribe.

s. To enlarge or diminish the number of districts named in Article III, Section 2 hereof to meet future needs.

Section 2. The Tribal Council may exercise such additional powers as may be conferred upon it in the future by Congress, the Tribe, the Secretary of Interior, or any other duly authorized official or agency of the State or Federal Government.

Section 3. All rights and powers not delegated to the Tribal Council are reserved to the Tribe and may be exercised by the members of the Tribe through the adoption of amendments to this Constitution.

Section 4. The Tribal Council shall (1) annually adopt a resolution establishing a budget for the Tribe, (2) hold hearings on the budget prior to its adoption, (3) commission a formal, independent certified audit of all tribal assets, liabilities and expenditures not less frequently than annually, the results of which shall be made available to all district organizations established under Article V11, and (4) provide informal reports to the membership on tribal finances not less frequently than once every three months.

Section 5. All proposed ordinances shall be introduced at a Tribal Council meeting and thereafter posted in a public place at the Tribal Office and in each district for not less than ten days prior to final adoption by the Tribal Council. All enacted ordinances shall be posted in each district and made available for public inspection at the Tribal Office. All enacted ordinances shall be made available to the Local District Councils.

ARTICLE V - TRIBAL ELECTIONS

Section 1. Any enrolled member of the Tribe at least eighteen (18) years of age and resident in the district in which he votes for at least thirty (30) days immediately prior to the date of the election shall be qualified to vote.

Section 2. Tribal elections shall be held in 1984 and thereafter in each odd numbered year on a date to be fixed by the Tribal Council and in accordance with rules and regulations to be prescribed by ordinance adopted by the Tribal Council.

Section 3. Six (6) councilmen shall be elected at-large by the qualified voters of the Tribe at-large each for a term of four years beginning in 1987; at the 1984 election each such councilman shall be elected for a three-year term only. Each of these councilmen shall be a resident of the Reservation without regard to residence in any district or in the North Dakota or South Dakota portion of the Reservation.

Eight (8) councilmen, each of whom shall be a resident of the district from which he is elected, shall be elected by the qualified voters of the Tribe who are residents of that district for a term of four years beginning in 1985. At the 1984 election, a councilman who is a resident of the district of McLaughlin shall be elected by the qualified voters of the Tribe who are residents of the McLaughlin District for a term of one year.

If more than two (2) candidates seek an office of councilman, a primary election shall be held for that office not more than ninety (90) days nor less than thirty (30) days before the general election and the two (2) candidates for each office of councilman receiving the highest number of votes in the primary election shall be the nominees in the general election.

Section 4. The Chairman, Vice-Chairman and Secretary of the Tribal Council shall each be elected by the qualified voters of the Tribe at large for a term of four (4) years beginning in 1985.1f more than two (2) candidates seek the office of Chairman, Vice-Chairman or Secretary, a primary election shall be held not more than ninety (90) days nor less than thirty (30) days before the general election and the two (2) candidates for each such office receiving the highest number of votes in the primary election shall be the nominees in the general election.

Section 5. If an office of a councilman, elected from a district, becomes vacant before the expiration of the term, the qualified voters of the district shall fill the vacancy within thirty (30) days from the date of the vacancy.

If an office of a councilman, elected-at-large from the entire Reservation, becomes vacant before the expiration of the term, the qualified voters of the entire Reservation shall fill the vacancy within thirty (30) days from the date of the vacancy.

Section 6. If the office of Chairman becomes vacant before the expiration of the term, the Vice-Chairman shall fill the unexpired term. If the office of Vice-Chairman or Secretary becomes vacant before the expiration of the term, the Chairman shall appoint a person to fill the vacancy for the unexpired term, which appointment shall not become effective until confirmed by a two-thirds majority vote of the Tribal Council. In the event the office of Chairman becomes vacant before expiration of the term and the Vice-Chairman whether by reason of death, illness or resignation is unable to assume the duties of Chairman, if less than one year of the term remains, the Tribal Council may in its discretion either appoint a Chairman from within the Tribal Council by a two-thirds majority vote of the Tribal Council or may order a special election, or, if one year or more remains, the Tribal Council shall order a special election to be held within thirty (30) days after the date of the vacancy.

ARTICLE VI - REVIEW OF RESOLUTIONS AND ORDINANCES

Section 1. Any resolution or ordinance subject to review by the Secretary of the Interior or his authorized representative, shall be presented to the Superintendent of the Reservation or the officer in charge, who shall within ten (10) days thereafter approve or disapprove the same.

Section 2. Upon approval or failure to approve or disapprove within ten (10) days as provided in Section 1, Article VI, the resolution or ordinance shall become effective. The Superintendent or officer in charge shall transmit copies of all effective resolutions or ordinances to the Secretary of the Interior, who may, within sixty (60) days after receipt thereof, rescind any resolution or ordinance for good cause by giving written notice and the reasons therefor to the Tribal Council.

Section 3. If the Superintendent or officer in charge shall disapprove any resolution or ordinance, he shall notify the Tribal Council in writing of his reasons therefor within ten (10) days after the resolution is delivered to the office of the Superintendent or officer in charge. If the Tribal Council is not satisfied with the reasons so given, it may, by a majority of the members voting, refer the resolution or ordinance to the Secretary of the Interior for approval.

Section 4. The Secretary of the Interior shall within sixty (60) days after receipt of any resolution or ordinance referred to him by the Tribal Council for approval notify the Tribal Council in writing of his decision to approve or disapprove.

ARTICLE VII - DISTRICT ORGANIZATION

Each district recognized under Article III, Section 2, hereof, may organize local District Councils and elect District officers to consult, make recommendations and advise the Tribal Council, the Superintendent of the Reservation or officer in charge, and the Secretary of the Interior, on all matters of local or tribal interest. The District Councils and officers shall exercise such powers as the Tribal Council may delegate.

ARTICLE VIII - AMENDMENTS

This Constitution may be amended or rewritten by a majority vote of the qualified voters of the Standing Rock Sioux Tribe voting at an election called by the Chairman. The Chairman shall call an election upon a proposed amendment or rewrite to the Constitution at the request of three fourths (3/4) of the members of the Tribal Council or upon petition of twenty (20) per cent of the qualified voters of the Standing Rock Sioux Tribe.

ARTICLE IX - ADOPTION OF AMENDED CONSTITUTION

The amended or rewritten Constitution shall become effective when ratified by a majority of the qualified voters of the Standing Rock Sioux Tribe voting in an election called by the Chairman, pursuant to Article VIII of this Constitution.

ARTICLE X - NOT AN INDIAN REORGANIZATION ACT CONSTITUTION

This Constitution is not a Constitution pursuant to Section 16 of the Indian Reorganization Act of June 18, 1934, c. 576, 48 Stat. 985, 987 (25 U.S.C. 476).

ARTICLE XI - BILL OF RIGHTS

Section 1. The Tribe shall not make or enforce any law prohibiting the free exercise of religion, or abridging the freedom of speech, or of the press, or the right of the people peaceably to assemble and to petition for a redress of grievances.

Section 2. The Tribe shall not violate the right of the people to be secure in their persons, houses, papers, and effects against unreasonable search and seizures, nor issue warrants, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the person or thing to be seized.

Section 3. The Tribe shall not subject any person for the same offense to be twice put in jeopardy.

Section 4. The Tribe shall not compel any person in any criminal case to be a witness against himself.

Section 5. The Tribe shall not take any private property for a public use without just compensation.

Section 6. The Tribe shall not deny to any person in a criminal proceeding the right to a speedy and public trial, to be informed of the nature and cause of the accusation, to be confronted with the witnesses against him, to have compulsory process for obtaining witnesses in his favor, and at his own expense to have the assistance of counsel for his defense.

Section 7. The Tribe shall not require excessive bail, impose excessive fines, inflict cruel and unusual punishments, and in no event impose for conviction of any one offense any penalty or punishment greater than imprisonment for a term of one (1) year or a fine of $5,000, or both.

Section 8. The Tribe shall not deny to any person within its jurisdiction the equal protection of its laws or deprive any person of liberty or property without due process of law.

Section 9. The Tribe shall not pass any bill of attainder or ex post facto law.

Section 10. The Tribe shall not deny to any person accused of an offense punishable by imprisonment the right, upon request, to a trial by jury of not less than six persons.

Section 11. The Tribe shall provide all members of the Standing Rock Sioux Tribe the right of equal opportunity, public notice, a fair and open selection process, and criteria for any economic enhancement prospects.

Section 12. The Tribe shall recognize and support the enforcement of the rights, privileges and guarantees vested and derived from the Treaties made negotiated and applicable wherein the people of Standing Rock have a vested interest as an affected party with enforceable rights, privileges, guarantees, and claims.

Section 13. The Tribe shall as a matter of right recognize the traditional laws and customs of the Standing Rock Sioux.

Section 14. The Tribe shall recognize and promote the economic and educational opportunities of the Standing Rock Sioux Tribal members in a fair and impartial manner. The Tribe shall promote and provide for the education and educational opportunities of the Standing Rock Sioux Tribal members.

Section 15. The Tribe shall recognize the right of individual tribal members the employment opportunities, housing, subsistence, education and economic and infra structure development for the continued existence and attending to the necessities of life of its Tribal membership.

ARTICLE XII- JUDICIARY

The judicial power of the Tribe shall be vested in one Supreme Court and one Tribal Court. The Judges of both the Supreme Court and the Tribal Court shall initially be appointed by a two-thirds majority vote of the Tribal Council to serve an initial term of office ending on the date of the next regular Tribal election. At that election, a referendum shall be held by all the qualified voters of the Tribe to determine whether each appointed Judge and each other Judge whose term of office expires with the date of that election shall be retained in office. If a Judge is retained in office by a majority of the votes cast, he shall serve a four-year term. If a Judge is not retained in office by the voters, the Tribal Council shall appoint a successor and the Judge shall remain in office until his successor is so appointed and sworn in.

The judicial power shall extend to all cases in law and equity arising under this Constitution, customs or the laws of the Tribe, and to any case in which the Tribe, a member of the Tribe, an Indian residing on the Reservation or a corporation or entity owned in whole or in substantial part by any Indian shall be a party.

The Tribal Council shall, by ordinance, establish the minimum qualifications for Supreme Court and Tribal Court Judges. No Judge shall be removed from office except upon written charge of specific misconduct in office, or medical inability to carry out the duties of office, adopted by a two-thirds majority vote of the Tribal Council after a hearing with reasonable prior notice to the Judge.

CERTIFICATE OF ADOPTION

This attached amended Constitution was submitted for ratification to the adult members of the Standing Rock Sioux Tribe, and was on the 11th day of February 1959, ratified by a vote of 409 for, and 182 against, representing approximately thirty percent (30%) of the qualified voters of the Tribe.

/s/ JAMES G. McLEAN, Chairman
Standing Rock Sioux Tribal Council

/s/ LOUISE PAINTE, Secretary
Standing Rock Sioux Tribal Council

APPROVED, April 24, 1959:

/s/ HAROLD W. SCHUNK
1959 Superintendent

/s/ ROGER ERNST
Assistant Secretary of the Interior

AMENDMENTS

This Constitution contains amendments to the 1959 Constitution which were submitted to the qualified voters of the Standing Rock Sioux Tribe for ratification and approved on the following dates:

- Amendment I - Approved February 26, 1963
- Amendment II - Approved December 23, 1963
- Amendment II - Approved December 10, 1971
- Amendments IV thru IX - Approved July 09, 1974
- Amendments X-XXVIII – Approved May 11, 1984
- Amendment XXIX – Approved October 15, 1984
- Amendments XXX Thru XXXV – Approved February 10, 2005
- Amendments XXXVI & XXXVII – Approved June 11, 2008

Certified By:

/s/ Dellis M. Agard, Election Supervisor
Standing Rock Sioux Tribe